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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,481	06/26/2001	Vinod K. Narula	ZL469/01001	9384

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EXAMINER

NGUYEN, CAMTU TRAN

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/891,481	Applicant(s) NARULA ET AL.	
	Examiner Camtu T. Nguyen	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7 and 10-13 is/are rejected.
- 7) ☒ Claim(s) 4-6, 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Applicant's Election

This Office Action is in response to applicant's election of species filed on May 28, 2004.

Applicant's election without traverse of claims 1-13 is acknowledged. Claims 14-30 are cancelled.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Loori (U.S. Patent No. 4,801,291). Loori discloses in figures 1-6 a foam shell (32) having a base portion (18) and a protuberance portion (19). The protuberance portion (19) having a periphery and a bottom liner (12) projecting upwardly forming a cup contoured. The base portion (18) is attached opposite of the protuberance portion (19). The device is reversibly securing to a body part by a belt (20).

Claims 1-3, 7, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kline et al (U.S. Patent No. 5,010,878). Kline et al discloses in Figures 1-7 an apparatus for supporting a patient's foot comprising elements recited in these claims including a base (22) and a cover (24), both of which are made of resilient foam material. The base (22) is contoured to

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receive the patient's foot and the cover (24) is fixedly attached opposite to the base (22) by the strap (26). The apparatus includes side straps (28) securing the base (22) to the patient's foot. The straps (28) are positioned between the base (22) and the cover (24).

The introductory statement of intended use and all other functional statements have been carefully considered but deemed not to impose any structural limitations on the claims distinguished over the Loori or the Kline et al device in the sense of 35 USC 102 which is capable of being used as set forth in the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loori (U.S. Patent No. 4,801,291). Loori discloses in figures 1-6 a foam shell (32) comprising elements as recited in these claims. With regards to the belt (20) positioned between the protuberance portion (19) and the base portion (18), it is clearly possible to modify the foam shell device to position the belt (20) between the two portions (18, 19), as recited, as such would not alter the performance outcome during use. Therefore it would have been obvious to one skilled to have positioned the belt (20) between the two portions (18, 19) for the purpose of providing an immediate grip/security and the conformity of the protuberance portion (19) to the irregularly shaped of the patient's body (1). With regards to the exudates absorbing material, as recited,

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applicant disclosed such material is available by Lendell Manufacturing Inc. (page 9 paragraph 3). Therefore, it would have been obvious to one skilled in the art to apply the material by Lendell Manufacturing Inc. for the purpose of providing absorb wound exudates.

Allowable Subject Matter

Claims 4-6, 8, and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 703-305-0537. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 703-308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Camtu Nguyen
August 22, 2004



Henry Bennett
Supervisory Patent Examiner
Group 3700